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MARCIA M. WALDRON
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UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT
21400 UNITED STATES COURTHOUSE
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PHILADELPHIA 19106-1790

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March 11, 2005

Mary E. D'Andrea, Clerk
United States District Court
P.O. Box 983
Harrisburg, PA 17108-0983

Re: USA v. Joseph Viggiano
(M.D. Pa. No. 1:00-cr-00338-YK-2)

Dear Ms. D'Andrea:

Pursuant to Rule 4(d), Federal Rules of Appellate Procedure, and Rule 3.4, Third Circuit Local Appellate Rules, we are forwarding the attached application for issuance of a certificate of appealability which should be construed as a notice of appeal which was apparently filed with this office in error. See Rule 3(a)(1), Federal Rules of Appellate Procedure and Rule 3.4, Third Circuit Local Appellate Rules. The notice was placed in the prison mail system on March 8, 2005.

This document is being forwarded solely to protect the litigant's right to appeal as required by the Federal Rules of Appellate Procedure. Upon receipt of the document, kindly process it according to your Court's normal procedures. If your office has already received the same document, please disregard the enclosed copy to prevent duplication.

It is noted that the District Court stated a certificate of appealability will not issue. Once the appeal has been received by this Court, Mr. Viggiano's document will be docketed as a request for a certificate of appealability in the Court of Appeals.

Pursuant to Rule 3(a)(1), Federal Rules of Appellate Procedure, a notice of appeal must be filed with the Clerk of the District Court. This Court may not act on an appeal until the notice has been docketed in the District Court and certified to this Court by the District Court Clerk.

Thank you for your assistance in this matter.

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Very truly yours,

Marcia M. Waldron, Clerk

By: /s/ Gayle Burr
Gayle Burr
Legal Assistant

Enclosure

cc: Mr. Joseph Viggiano (w/out enclosure)
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